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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,497	01/26/2006	Wolfram Reddig	05579-00351-US	7962
23416 7590 05/31/2007 CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899			EXAMINER KLEMANSKI, HELENE G	
			ART UNIT 1755	PAPER NUMBER
			MAIL DATE 05/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/562,497	Applicant(s) REDDIG ET AL.	
	Examiner Helene Klemanski	Art Unit 1755	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2007.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-12 and 14-19 is/are rejected.
 7) ☒ Claim(s) 13 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Claims 12, 13, 15, 17 and 19 have been amended, none of the claims have been deleted and no new claims have been added. Hence, claims 1-19 are pending in the application.
2. The objection to the abstract of the disclosure as set forth in the previous Office Action dated October 10, 2006 has been overcome by applicant's amendment and is now withdrawn.
3. The objection to the specification as set forth in the previous Office Action dated October 10, 2006 has been overcome by applicant's amendment and is now withdrawn.
4. The objection to claim 13 as set forth in the previous Office Action dated October 10, 2006 has been overcome by applicant's amendment and is now withdrawn.
5. The 112, second paragraph, rejection as set forth in the previous Office Action dated October 10, 2006 has been overcome by applicant's amendment and is now withdrawn.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

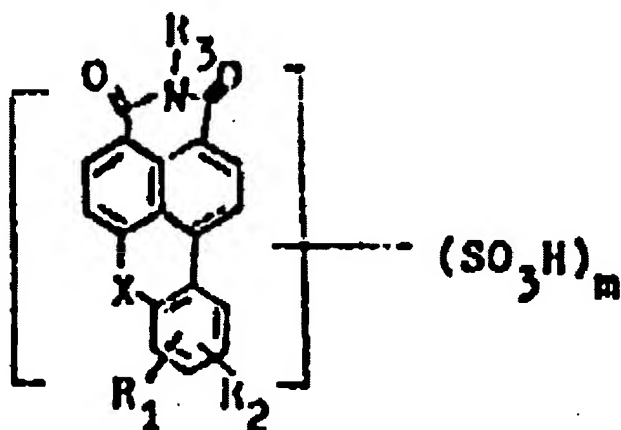
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claims 1-12 and 14-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Meininger et al. (US 3,888,862).

Meininger et al. teach a water-soluble reactive xanthene dye of the formula



wherein R_1 and R_2 , which may be the same or different, represent H, a halogen atom, a C1-4 alkyl group or a C1-4 alkoxy group; X represents an oxygen or sulfur atom or a CO-group; m is a number from 1 to 3 and R_3 is a group of the formula



wherein W represents a bivalent bridge member such as $-\text{CH}_2-\text{CH}_2-$ or $-\text{CH}_2-\text{CH}_2-\text{CH}_2-$; A represents a bivalent, mono- or bi-nuclear aromatic group such as phenylene or naphthalene group or a bivalent diphenyl in which the group A may be substituted with sulfo groups in the aromatic group; B represents a bivalent bridge member such as $-\text{CH}_2-\text{CH}_2-$ or $-\text{CH}_2-\text{CH}_2-\text{CH}_2-$ or $-\text{NR}_4$; R_4 represents H or an optionally substituted lower alkyl group; Y represents a reactive group such as a diazine or triazine ring having Cl, Br or F as substituents; n, p and q represent 0 or 1 and r represents 1 or 2.

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The reactive xanthene dyes are suitable for dyeing and printing of various fiber materials and can be used according to the dyeing and printing methods used in the art for reactive dyestuffs. See col. 1, lines 5-64, col. 2, lines 3-7, col. 4, lines 48-65, col. 10, lines 47-57, examples 3, 17 and 32-34 and claim 1. The water-soluble reactive xanthene dye as taught by Meininger et al. appears to anticipate the present claims.

Allowable Subject Matter

8. Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: None of the cited prior art teaches or fairly suggests a xanthene dye wherein T is phenylene, which is unsubstituted or substituted by 1 or 2 substituents selected from the group consisting of C1-4 alkyl, C-14 alkoxy, carboxyl, sulfur (sic), chlorine or bromine and Z represents $-\text{CH}-\text{CH}_2$, $-\text{CH}_2\text{CH}_2\text{Z}^2$ or hydroxyl wherein Z^2 is hydroxyl or an alkali-detachable group as claimed by applicants.

Response to Arguments

10. Applicant's arguments filed March 9, 2007 have been fully considered but they are not persuasive.

Applicants argue that textile inkjet printing was not a commonly used method at the time of the filing of the Meininger et al. reference (1972). The examiner disagrees

since U.S. Patent No. 3,846,141 (filed 1970) shows that ink jet printing was available at the time of the invention of the Meininger et al. reference. Furthermore, it is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d. 2109, 169 USPQ 226 (CCPA 1971). See also MPEP 2112.01 (R-3). Accordingly, the rejection over Meininger et al. is maintained and this action is final.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helene Klemanski whose telephone number is (571) 272-1370. The examiner can normally be reached on Monday-Friday 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (571) 272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Helene Klemanski
Primary Examiner
Art Unit 1755



HK
May 15, 2007